THE HONOURABLE SRI JUSTICE
A.GOPAL REDDY

W.P.No.7182 of 2006

Dt.13-04-2006

Between:

M.Venkateswarlu

..Petitioner

and

1. The Joint collector, Prakasam District, Ongole and another

..Respondents.

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THE HONOURABLE SRI JUSTICE
A.GOPAL REDDY

W.P.No.7182 of 2006

Oral Order:

Petitioner is the owner of lorry bearing No. AP 16 T 1233 which was seized on the ground that it was used for carrying PDS rice violating conditions of A.P. State (Public Distribution System) Control Order, 2001 by registering crime No.13/2006 under Section 7 r/w 3 of Essential Commodities Act (for short "the Act"). On petitioner filing an application under Section 451 Cr.P.C. for interim custody of the lorry before the Additional Munsif Magistrate, Chirala, the same was alleged to have been returned on the ground that Vetapalem police filed a Memo stating that the lorry and rice handed over to the Joint Collector for confiscation. In view of the same, petitioner filed an application before the Joint Collector for release of the vehicle and filed the present writ petition for issuance of Mandamus questioning the seizure of the vehicle and its release.

This Court in ***SHEELA SRINIVAS v. DISTRICT COLLECTOR, KARIMNAGAR***[1] categorically held that on Central Government deleting the rice from the Schedule Commodity, no 6-A proceedings can be initiated and officials who seized the vehicle for any other contravention under the Act have to register the crime and proceed under the Criminal Procedure Code.

Once seizure is already reported to the Magistrate on registering the crime, it is for the Magistrate to pass appropriate orders for interim custody in exercise of powers under Section 451 Cr.P.C.,

but he cannot delegate his powers to the Joint Collector ignoring the law declared by this Court. Even if the Magistrate returns the application filed under Section 451 Cr.P.C. petitioner will have a right of revision to the Sessions Judge against the order passed by the Magistrate.

In view of the same, petitioner is at liberty to move the Magistrate Court along with this order and on filing such application it is the duty of the Magistrate to pass appropriate orders.

The writ petition is accordingly disposed of. No costs.

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A.GOPAL REDDY, J.

13-04-2006
Note: Issue CC by Monday
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Murthy

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[1] 2002 (6) ALD 585